

HOUSE BILL NO. 532

INTRODUCED BY D. GALLIK

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A BUSINESS THAT DEVELOPS AND OWNS A PRESCRIPTION DRUG AND THAT ADVERTISES THE DRUG FOR SALE IN MONTANA AND RECEIVES REVENUE FROM THOSE SALES IN MONTANA TO DISCLOSE ALL OF THE BUSINESS'S COSTS OF ADVERTISING THE DRUG FOR SALE IN MONTANA AS A PERCENTAGE OF TOTAL REVENUE DERIVED FROM THE SALE OF THE DRUG IN MONTANA; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND AMENDING SECTIONS 30-14-222 AND 30-14-224, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-14-222, MCA, is amended to read:

"30-14-222. Injunctions -- damages -- production of evidence. (1) Any person who is or will be injured, the department, or the attorney general may maintain an action to enjoin an act that is in violation of 30-14-205 through 30-14-214, ~~or~~ 30-14-216 through 30-14-218, or [section 3] and for the recovery of damages. If the court finds that the defendant is violating or has violated any of the provisions of 30-14-205, 30-14-214, or 30-14-216 through 30-14-218, it shall enjoin the defendant. It is not necessary to allege or prove actual damages to the plaintiff.

(2) (a) In addition to injunctive relief, the plaintiff is entitled to recover from the defendant the greater of three times the amount of actual damages sustained or \$1,000.

(b) In addition to any amount recovered pursuant to subsection (2)(a), a plaintiff who proves a violation of 30-14-209 is entitled to \$500 a day for each day that a violation of 30-14-209 occurred.

(3) A defendant in an action brought under this section may be required to testify under the Montana Rules of Civil Procedure. In addition, the books and records of the defendant may be brought into court and introduced into evidence by reference. Information obtained pursuant to this subsection may not be used against the defendant as a basis for prosecution under 30-14-205 through 30-14-214, 30-14-216 through 30-14-218, or 30-14-224.

(4) In an action brought by a party other than the state, the prevailing party is entitled to attorney fees and costs."

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2 **Section 2.** Section 30-14-224, MCA, is amended to read:

3 **"30-14-224. Penalties.** (1) A person, whether as principal, agent, officer, or director, who purposely or
4 knowingly violates any of the provisions of 30-14-207 through 30-14-214 or 30-14-216 through 30-14-218 is
5 guilty of an offense for each violation and upon conviction may be fined an amount not more than \$10,000 or
6 imprisoned for a term not to exceed 2 years, or both.

7 (2) A violation of 30-14-205 or [section 3] is punishable by imprisonment for a period of not more than
8 5 years, and the offender may be subject to a fine in an amount not exceeding \$25,000.

9 (3) When there is a violation of 30-14-216, in addition to the penalty specified in subsection (1), the court
10 before which a conviction is had shall, within 10 days after judgment of conviction is given, forward a certified
11 copy of the judgment to the department of agriculture and that department shall revoke any license issued to
12 the convicted person. A new license may not be granted to the person whose license is revoked or to anyone
13 either directly or indirectly engaged with that person in that business for a period of 5 years."
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15 NEW SECTION. **Section 3. Prescription drug companies to disclose advertising budget.** A
16 business that develops and owns a prescription drug, advertises that drug for sale in this state, and receives
17 revenue from the sale of that drug in this state shall disclose in its advertising the amount of money expended
18 in advertising the drug in this state. The disclosure must show the amount of money spent on advertising the
19 drug in this state as a percentage of the total revenue derived from the sale of the drug in this state.
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21 NEW SECTION. **Section 4. Codification instruction.** [Section 3] is intended to be codified as an
22 integral part of Title 30, chapter 14, part 2, and the provisions of Title 30, chapter 14, part 2, apply to [section 3].
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